IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1155 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

P. J. KAPADIA

Versus

DISTRICT PRIMERY EDUCATION OFFICER

Appearance:

MRS SANGEETA N PAHWA for Petitioner

MR ND NANAVATI for Respondent No. 1

MS MANISHA LAVKUMAR, AGP for Respondent No. 3

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 16/02/2001

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution, an assistant teacher in Kheda District has challenged the order dated 7.12.1992 passed by the District Primary Education Officer, Kheda District Panchayat suspending the petitioner from service pending a departmental inquiry.

2. Mr Prem Ghansyani appearing for Mr ND Nanavati for respondent No. 1 - District Primary Education officer, Kheda District Panchayat states that the petitioner has already been dismissed from service and, therefore, the petition has become infructuous.

3. In view of the above development, the petition has become infructuous and the same is accordingly dismissed as infructuous.

4. The learned counsel for the petitioner, however, submits that the petitioner has challenged the order of dismissal in another petition and that ultimately if the petitioner succeeds in the said petition, the question will arise about regularization of the period of suspension.

What is contemplated by the learned counsel for the petitioner is too remote to be required to be considered. In any case, if the petitioner ultimately succeeds in the petition challenging the order of dismissal and any question of regularization of the period of suspension arises, it will be open to the petitioner to make necessary representation and it will be open to the authorities to pass appropriate orders in accordance with law. Dismissal of this petition on the ground that it has become infructuous shall not preclude the petitioner from raising appropriate contentions at the relevant time, if at all required to be made.

Rule is discharged with no order as to costs.

(M. S. Shah, J.)
sundar/-